

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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SCOTT WILCOX, Individually and as Administrator of
the Estate of JENNA WILCOX,

CIVIL ACTION NO.:
13- CV- 01117 RJA/JJM

Plaintiffs,

NOTICE OF MOTION

-against-

YOKOHAMA TIRE USA,
YOKOHAMA RUBBER COMPANY, LTD.,
LES SCHWAB TIRE CENTERS,
THE AUTO STORE,

Defendants.

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PLEASE TAKE NOTICE that, upon the annexed Declaration of Michael H. Bai, Esq., the Exhibits attached thereto, including the Declaration of Thomas Griffing, and accompanying Memorandum of Law and all papers and pleadings in this action, Defendant YOKOHAMA TIRE CORPORATION improperly named as Yokohama Tire USA will move this Court before the Honorable Richard J. Arcana on a date and time to be determined by the Court, for an Order pursuant to Federal Rules of Civil Procedure 12(b)(3) and 12(b)(6) dismissing the complaint as against Yokohama Tire Corporation for improper venue and failure to state a claim upon which relief can be granted, and in the alternative, for a more definite statement pursuant to Federal Rule of Civil Procedure 12(e), together with such other and further relief as this Court may deem just, proper and equitable.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 7(a) of the Local Rules of Civil Procedure, this Defendant intends to file and serve reply papers. Absent an Order of the

Court, plaintiff is required to serve and file responding papers, if any, fourteen days after service of this motion.

PLEASE TAKE FURTHER NOTICE that oral argument is requested.

WHEREFORE, for the reasons set forth in Defendant's Memorandum of Law in support of this Motion, Defendant respectfully requests that the Court dismiss the plaintiff's Complaint as a matter of law, and that it grant such other relief as the Court deems equitable and just.

Dated: New York, NY
January 29, 2014

Respectfully submitted,

LITTLETON JOYCE UGHETTA PARK & KELLY LLP



By: _____

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CERTIFICATE OF SERVICE

I certify that on January 29, 2014, that the foregoing document and accompanying exhibits were filed and uploaded to the CM/ECF system which will send a notice of electronic filing to the following:

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By: _____

A handwritten signature in blue ink, appearing to read 'M. Bai', is written over a horizontal line.

Michael H. Bai